

# Notice of Allowability

Application No.

10/686,411

Examiner

Wayne Langel

Applicant(s)

LOVATT, CAROL J.

Art Unit

1754

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Terminal Disclaimers filed 11-1-04.
2. ☒ The allowed claim(s) is/are ~~25-129~~ 25-132.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Wayne A. Langel*  
Wayne Langel  
Primary Examiner  
Art Unit: 1754

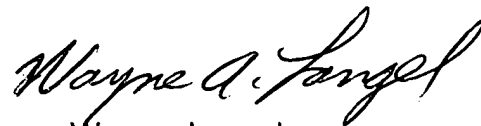
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The following is an examiner's statement of reasons for allowance: The article by Robertson and Boyer ("Orthophosphite as a Buffer for Biological Studies") reports the observation that orthophosphates do not interfere with enzymatic reactions to phosphate, and that the anion might be a useful buffer near neutral pH and that the orthophosphates were relatively non-toxic towards yeast and bacteria. While Robertson and Boyer begin with concentrated compositions, these concentrated compositions are not buffered. Instead, they are taught as first being diluted to 0.1 molar stock solutions, and only then are formed as buffered solutions. There is no teaching, disclosure or suggestion in the article by Robertson and Boyer to provide a concentrated (i.e. about 30 weight percent or greater) phosphate solution, which is also buffered, as required by independent claims 25, 31, 71, 75, 79, 85, 125 and 129, and the claims dependent thereon. Moreover, there is no teaching, disclosure or suggestion in the article by Robertson and Boyer to provide a solution comprising phosphorus in an amount equivalent to about 0.30 kg/L or greater P<sub>2</sub>O<sub>5</sub>, which is also buffered, as required by applicant's independent claims 37, 43, 49, 55, 61, 91, 97, 103, 109 and 115, and the claims dependent thereon. Regarding claims 67 and 121, and the claims dependent thereon, there is no teaching, disclosure or suggestion in the article by Robertson and Boyer to mix an organic acid or salt thereof with a phosphorus-containing acid to form a fertilizer having a pH of less than 2.5. Nor would there be any motivation from the prior art to modify the composition disclosed in the article by Robertson and Boyer to arrive at the compositions recited in applicant's claims.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Wayne Langel at telephone number 571-272-1353.

A handwritten signature in black ink that reads "Wayne A. Langel". The signature is written in a cursive style with a large, stylized 'W' and 'L'.

Wayne Langel  
Primary Examiner  
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